IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3769 OF 2006

Suresh @ Sonya Sitaram Bhadane & others ...Applicants

vs.

The State of Maharashtra ...Respondent

Mr.S.V.Kotwal for the Applicants
Mr.S.R.Shinde, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : OCTOBER 18,2006.

P.C.:

1. Heard Shri Kotwal appearing for the Applicants. The Applicants applied under section 216 of the Code of Criminal Procedure, 1973 for alteration of the charge. The charge was framed by the learned Ad hoc Additional Sessions Judge against the Applicants for offences punishable under sections 504 read with section 34, section 506 read with section 34, section 326 read with section 34 and section 302 read with section 34 of the Indian Penal Code.

2. Shri Kotwal for the Applicants submitted that the incident is of 20th October 2004 and the deceased died on 29th November 2004. He submitted that there was no occasion for the learned Judge to frame charge under section 302 of the said Code. He invited my attention to the advance final cause of death certificate issued on 14th March 2005. He submitted that the charge for lesser offences be framed and the case may be sent back to the court of Judicial Magistrate (F.C.). He submitted that at any stage, the case can be again committed to the

court of Sessions if the court of Magistrate finds that the case for offence under section 302 is made out. He submitted that the Applicants will be deprived of one more forum of Appeal which may be available to them if they are tried by the Court of Judicial Magistrate First Class.

3. The application made by the Applicants has been rejected by the impugned order. Considering the Post Mortem notes and the report submitted on 14th March 2005, I find that there is no error in the view taken by the Trial Court. The learned Judge has observed that there was sufficient material on record for framing the charge under section 302 of the said Code. There is no error in the said finding. Application is rejected. All contentions of the Applicants in the trial are kept open.

JUDGE